

### REMARKS

Claims 1-9 are currently pending, with claim 1 being the only independent claim. No amendments to the claims have been made. Reconsideration of the above-identified application, in view of the following remarks, is respectfully requested.

Claims 1, 2, 4, 6 and 7 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,974,570 ("*Szwargulski*").

Claims 1 and 2 stand rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,002,328 ("*Wallrafen*") in view of U.S. Patent No. 6,488,476 ("*Eck*") and U.S. Patent No. 5,396,872 ("*Rüger*").

Claim 3, 5, 8 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Wallrafen* in view of *Eck* and *Rüger*. Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Szwargulski* in view of *Eck* and *Rüger*. For the following reasons, reconsideration and withdrawal of these rejections are respectfully requested.

Independent claim 1 was previously amended to recite, *inter alia*, "a bottom valve arranged proximate the bottom of the first chamber, the bottom valve permitting a flow of fuel into the first chamber and preventing a flow of fuel out of the first chamber", "a second chamber connected to the first chamber via a throttle valve"; and "wherein a volumetric flow of fuel that is restricted by the throttle valve is smaller than the volumetric flow fed by the fuel pump." The cited references fail to teach or suggest *at least* these limitations.

### Rejection in view of Szwargulski

*Szwargulski* relates to a “vehicle fuel pumping unit wherein a reserve fuel supply container is located within the fuel tank to supply liquid fuel to a motor-operated pump when the tank is nearly empty” (see Abstract, lines 1-4). *Szwargulski* depicts a container 27 in which a fuel pump unit is arranged (see Fig. 2 of *Szwargulski*). A bottom wall of the container 27 includes a central wall section 29, a tubular wall section 31 extending upward from the central wall section 29, and a laterally extending wall section 32 that connects to a container side wall 33 (see col. 3, lines 55-60 of *Szwargulski*). A space 35 below the central wall section 29 is connected to a central fuel chamber 37 above the central wall section 29 through a flow port 34 (col. 3, lines 63-66). A primary valve element 40 is arranged to open or close the flow port 34, depending on a position of a float 42 attached to the valve 40 (col. 4, lines 1-3). According to *Szwargulski*, “[d]uring normal operations (with sufficient fuel in tank 12) float 42 is buoyed up so that valve element 40 is open. Liquid fuel is supplied to pump intake 46 through port 34” (see col. 5, lines 30-33). *Szwargulski* thus teaches that the float 42 actuates the valve 40 depending on the level of fuel within the space 35 to thereby permit fuel to flow from space 35 into central fuel chamber 37.

*Szwargulski* further discloses an annular spacer member 50 positioned on a plate 48 to support an annular filter screen 55 (see col. 4, lines 47-51; and Fig. 2). A valve 54 is arranged in the plate 48. The flexural resistance of valve element 54 is such that no liquid is taken from the container 27 into central fuel chamber 37 when the valve 40 is open (see col. 5, lines 30-36). When the fuel level drops below a cut-off level, the float 42 actuates valve element 40 to close the port 34, the pump suction is applied to and opens valve 54 so that fuel is drawn through the

valve 54 into the central fuel chamber 37 (see col. 5, lines 39-46). The pump continues pumping fuel received through the valve 54 (col. 5, lines 46-53).

According to the Examiner (at pg. 2) of the Office Action, the float 42 shown in Fig. 2 of *Szwargulski* corresponds to "a bottom valve arranged proximate the bottom of the first chamber", as recited in independent claim 1. However, the float itself is not a valve.

The Examiner (at pg. 3) of the Office Action additionally asserts that the container wall (33/27) corresponds to the "baffle" recited in independent claim 1 and that this same container wall (33/27) corresponds to "a second chamber connected to the first chamber via a throttle valve". The Examiner further contends that the valve 54 discloses the claimed "throttle valve." Applicants also do not agree with the Examiner's assertions.

The Examiner has misconstrued the teachings of *Szwargulski*. As described above, the valve 54 of *Szwargulski* supplies the central fuel chamber 37 with fuel when the valve 40 closes the port 34. Since the fuel pump continues to pump fuel received through the valve 54 until all the fuel in the tank is used, the volumetric flow through valve 54 must be equal to or greater than the volumetric flow fed by the fuel pump. Accordingly, *Szwargulski* fails to disclose "wherein a volumetric flow of fuel that is restricted by the throttle valve is smaller than the volumetric flow fed by the fuel pump", as expressly recited in independent claim 1.

Independent claim 1 is thus patentable over *Szwargulski* for at least these reasons. Reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) are therefore in order, and a notice to that effect is respectfully requested.

Rejection in view of Wallrafen, Eck, and Rüger

*Wallrafen* relates to “a fuel tank of a motor vehicle having a tank display system for a fuel tank of a motor vehicle having a sensor which measures the level of fuel in the tank and a tank display which indicates this level of fuel ” (see col. 1, lines 7-10 of *Wallrafen*). *Wallrafen* discloses a main tank 27 and a supplementary tank 18 (see col. 4, lines 43-45; and Fig. 1 of *Wallrafen*). A flood cup 2 with a fuel pump 3 is arranged in the main tank 27. The flood cup includes a limit switch 21 that controls a valve 20 in a line leading from the supplementary tank 18 to the flood cup 2 (col. 4, lines 50-54). When there is too low a fuel level, the valve 20 is opened so that fuel flows out of the supplementary tank 18 to the main tank 27 so that the fuel pump can draw sufficient fuel (see col. 4, lines 54-57; and col. 3, lines 1-4).

There is simply no bottom valve disclosed in the *Wallrafen* arrangement. Furthermore, *Wallrafen* discloses that the fuel supplied through valve 20 allows the fuel pump to draw sufficient fuel. Thus, the volumetric flow through valve 20 must be equal to or greater than the volumetric flow fed by the fuel pump. Accordingly, *Wallrafen* fails to disclose “wherein a volumetric flow of fuel that is restricted by the throttle valve is smaller than the volumetric flow fed by the fuel pump”, as expressly recited in independent claim 1.

Thus, independent claim 1 is thus patentable over *Wallrafen* under 35 U.S.C. §102(b), and a notice to that effect is respectfully requested.

Moreover, the Examiner has indeed acknowledged that the *Wallrafen* arrangement fails to show a bottom valve. According to the Examiner, *Wallrafen* is silent regarding details of a pump unit 3 that is disposed within a chamber surrounded by a fill cup 2 having a valve on a bottom wall, and cites *Eck* and/or *Rüger* to provide this feature.

*Eck* relates to "a fuel feed unit for a motor vehicle, with at least one fuel pump fastened to a holding part and intended for sucking in fuel from a baffle arranged in the bottom region of a fuel tank, and with a suction jet pump provided for feeding fuel out of the fuel tank into the baffle and connected to the fuel pump via a supply line" (see col. 1, lines 5-11). The sole figure of *Eck* depicts a baffle 2. A holding part 4 is arranged inside this baffle 2. In addition, a fuel pump 5 draws fuel out of the holding part 4. However, only one valve is depicted in the arrangement shown in *Eck*, i.e., valve 16 which feeds the suction jet pump 6. There is no reason to combine valve 16 with the system of *Wallrafen*. Moreover, there is no valve shown between the holding part 4 and the baffle 2. Accordingly, *Eck* fails to disclose the claimed throttle valve. Thus, the combination of *Wallrafen* and *Eck* fails to disclose the above-recited limitations of independent claim 1.

*Rüger* relates to "a fuel tank serving to provide fuel to the internal combustion engine of a motor vehicle" (see Abstract). *Rüger* (col. 3, lines 32-36) explains that "[d]ue to the check valve 76, the suction side 19 of the fuel pump 18 is already supplied with a small amount of fuel when first filling the tank or after the tank has run dry, so that the internal combustion engine can be started". *Rüger* also fails to disclose a throttle valve between two chambers.

In view of the foregoing, independent claim 1 is patentable over any combination of *Szwargulski*, *Wallrafen*, *Eck* and/or *Rüger*. Reconsideration and withdrawal of all the rejections under 35 U.S.C. §102(b) and §103(a) are therefore in order, and a notice to that effect is respectfully requested.

In view of the patentability of independent claim 1, dependent claims 2-9 are also patentable over the prior art for the reasons set forth above, as well as for the additional recitations contained therein.

Based on the foregoing amendments and remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,  
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